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16 Attorneys for Plaintiffs,
17 FAUN O'NEEL, B.T., A.O., D.O., and A.T.

18 FAUN O'NEEL, individually and as
19 Guardian Ad Litem for her children
20 B.T., A.O., D.O., and A.T.

21 Plaintiffs,

22 v.

23 CITY OF FOLSOM, a public entity;
24 SPENSER HEICHLINGER, an
25 individual; MELANIE CATANIO, an
26 individual; LOU WRIGHT, an
27 individual; [FNU] AUSTIN, an
individual; [FNU] HUSAR, an
individual; DOE CITY OF FOLSOM
DEFENDANTS, individuals;
COUNTY OF SACRAMENTO, a
public entity; DOE DCFAS
DEFENDANTS, individuals; and
DOES 1 through 10, inclusive,

28 Defendants.

29 Case No.

30 **COMPLAINT FOR CIVIL
31 RIGHTS VIOLATION**

32 [JURY TRIAL DEMANDED]

33
34 **PARTIES**

35 1. Plaintiff FAUN O'NEEL ("Faun" or "Plaintiff") is an individual
36 residing in the County of Sacramento. Faun is the mother of minor Plaintiffs,

1 B.T., A.O., D.O., and A.T. (The true names of the minors are replaced with the
2 initials to protect their privacy.)

3 2. At or near the time of the filing of this Complaint Faun O'Neal has
4 or will file a request for appointment as Guardian Ad Litem for her minor
5 children B.T., A.O., D.O., and A.T.

6 3. Plaintiff B.T. is and was at all times relevant an individual residing
7 in the County of Sacramento, California. B.T. is Faun's daughter. At the time of
8 the events alleged herein, B.T. was fourteen (14) years old.

9 4. Plaintiff A.O. is and was at all times relevant an individual residing
10 in the County of Sacramento, California. A.O. is Faun's daughter. At the time
11 of the events alleged herein, A.O. was fourteen (14) years old.

12 5. Plaintiff D.O. is and was at all times relevant an individual residing
13 in the County of Sacramento, California. D.O. is Faun's son. At the time of the
14 events alleged herein, D.O. was twelve (12) years old.

15 6. Plaintiff A.T. is and was at all times relevant an individual residing
16 in the County of Sacramento, California. A.T. is Faun's daughter. At the time of
17 the events alleged herein, A.T. was ten (10) years old.

18 7. Defendant CITY OF FOLSOM ("CITY") is a public entity. The
19 Folsom Police Department is an administrative subdivision of CITY,
20 responsible for enforcement of the law within the territorial jurisdiction of the
21 CITY.

22 8. Defendant SPENSER HEICHLINGER ("HEICHLINGER") is an
23 individual who on information and belief was at all times relevant a resident of
24 the County of Sacramento and an officer, agent, and/or employee of CITY,
25 working as a police officer for the Folsom Police Department. HEICHLINGER
26 is sued in his individual capacity as an employee of CITY.

27 9. Defendant [FNU] AUSTIN ("AUSTIN") is an individual who, on
28 information and belief, was at all times relevant a resident of the County of

1 Sacramento and an officer, agent, and/or employee of CITY, working as a
2 police officer for the Folsom Police Department. Plaintiff is ignorant of the first
3 name of AUSTIN. Plaintiff reserves the right to amend this complaint at such
4 time as AUSTIN'S full name is determined.

5 10. Defendant [FNU] HUSAR ("HUSAR") is an individual who, on
6 information and belief, was at all times relevant a resident of the County of
7 Sacramento and an officer, agent, and/or employee of CITY, working as a
8 police officer for the Folsom Police Department. Plaintiff is ignorant of the first
9 name of HUSAR. Plaintiff reserves the right to amend this complaint at such
10 time as HUSAR'S full name is determined.

11 11. Defendant MELANIE CATANIO ("CATANIO") is an individual
12 who on information and belief was at all times relevant a resident of the County
13 of Sacramento and an officer, agent, and/or employee of CITY, working as a
14 police officer for the Folsom Police Department. CATANIO is sued in her
15 individual capacity as an employee of CITY.

16 12. Defendant LOU WRIGHT ("WRIGHT") is an individual who on
17 information and belief was at all times relevant a resident of the County of
18 Sacramento and an officer, agent, and/or employee of CITY, working as a
19 police officer for the Folsom Police Department. WRIGHT is sued in his
20 individual capacity as an employee of CITY.

21 13. Defendants DOE CITY DEFENDANTS are individuals who on
22 information and belief were at all times relevant residents of the County of
23 Sacramento and officers, agents, and/or employees of CITY, working as police
24 officers for the Folsom Police Department. Each of the DOE CITY
25 DEFENDANTS are sued in their individual capacity as an employee of CITY.
26 Plaintiffs are ignorant of the names of the DOE CITY DEFENDANTS.
27 Plaintiffs reserve the right to amend this complaint at such time as the identities
28 of these defendants are ascertained.

1 14. Defendant COUNTY OF SACRAMENTO (“COUNTY”) is a
2 public entity. The Department of Child, Family and Adult Services (“DCFAS”)
3 is administrative subdivision of COUNTY responsible for discharging the
4 COUNTY’s child welfare programs and delivering Child Welfare Services to
5 residents within the territorial jurisdiction of the COUNTY.

6 15. Defendants DOE COUNTY DEFENDANTS were at all times
7 relevant individuals residing in the County of Sacramento and officers, agents,
8 and/or employees of DCFAS. Plaintiffs are ignorant of the true names of the
9 DOE COUNTY DEFENDANTS. Plaintiffs reserve the right to amend this
10 complaint at such time as the true identities of said defendants are discovered.

11 16. The true names and capacities, whether individual, corporate,
12 associate or otherwise, of Defendants DOES 1 through 10, inclusive, are
13 unknown to Plaintiff at the present time. Plaintiff therefore sues said
14 Defendants by such fictitious names and will seek leave of Court to amend this
15 Complaint to set forth the true names and capacities thereof, when the same has
16 been ascertained.

17 17. Defendants, and each of them, were and are the agents, servants,
18 representatives, and/or employees of each of the other Defendants, herein, and
19 were at all times acting within the course and scope of such agency,
20 representation and employment and with the permission and consent of each of
21 said Defendants.

22 18. Plaintiffs are informed and believe, and upon such information and
23 belief allege, that each of the Defendants, including DOES 1 through 10,
24 inclusive, were at all times herein mentioned, acting in concert with, and in
25 conspiracy with, each and every one of the remaining Defendants in doing the
26 things alleged in this Complaint.

27 19. Wherever appearing in this Complaint, each and every reference to
28 Defendants, and to any of them, is intended to be and shall be a reference to all

1 Defendants hereto, and to each of them, named and unnamed, including all
2 fictitiously named Defendants, unless said reference is otherwise specifically
3 qualified.

4 **JURISDICTION**

5 20. Pursuant to 28 U.S.C. sections 1331, 1343(a)(3) and 1343(a)(4),
6 the Court has original jurisdiction over the claims alleged herein arising under
7 the Fourth, and Fourteenth Amendments to the United States Constitution.

8 21. Pursuant to 28 U.S.C. section 1367(a), the Court also has
9 supplemental jurisdiction over the remaining state law claims, which are so
10 related to the vindication of constitutional rights that they form the same case or
11 controversy.

12 22. Plaintiff, Faun O'Neel, seeks to vindicate her liberty interest in the
13 companionship, care, custody, and management of her children. Faun and her
14 children, B.T., A.O, D.O, and A.T. have the constitutional right to live together
15 without governmental interference. All Plaintiffs seek to vindicate their
16 guaranteed right, under the Fourth, and Fourteenth Amendments to the United
17 States Constitution, to not be separated without due process of law except in
18 emergencies.

19 **VENUE**

20 23. Venue is proper in this judicial district because all Defendants are
21 residents of California and the events or omissions giving rise to Plaintiffs'
22 claims occurred in the County of Sacramento, State of California.

23 **COMMON FACTS**

24 24. Faun is the biological mother of daughters, B.T. and A.T. and the
25 adoptive mother of A.O and D.O. Over the years, Faun fostered more than 20
26 children in her home, from newborns through age 12. She once garnered
27 recognition as "foster parent of the year."

1 25. Faun fostered A.O. and D.O. for approximately 18 months, before
2 she fell in love with them and formally adopted the children on December 21,
3 2011. A.O and D.O. are biological half-siblings.

4 26. In 2013, Faun married Danny O’Neel (“Danny”), a U.S. Army
5 Veteran. Danny became step-father to all four children. At all times relevant to
6 this Complaint, Faun, Danny, B.T., A.O., D.O, and A.T., formed a family unit,
7 entitled to all the protection afforded under the United States Constitution and
8 the laws of the State of California.

9 27. Faun and Danny have always loved and nurtured their children.
10 They also take their duty to raise conscientious, responsible, and civic minded
11 children seriously. Each year, the O’Neel family adopts a family for Christmas,
12 serves meals for the underprivileged on Thanksgiving, volunteer for suicide
13 prevention services, and a variety of other projects designed to assist veterans
14 and first responders. Faun, herself, is the Executive Director of Warfighter
15 Overwatch, a non-profit geared towards assisting veterans of the United States
16 Armed Services, and has been a fellow of the Elizabeth Dole Foundation since
17 2015.

18 28. B.T., A.O., D.O., and A.T. have thrived under Faun and Danny’s
19 care. Both B.T. and A.O. are members of a High School cheerleading team that
20 Faun coaches. D.O. enjoys playing golf and running cross country. Their
21 youngest child, A.T., was born at just 23 weeks and already has had two open
22 heart surgeries. Despite this initial rough start, the child is also flourishing.

23 29. On December 20, 2020, the O’Neel family was relaxing at home in
24 the lead up to Christmas. Faun and the children were enjoying one of their
25 family traditions, which was to bake and decorate Christmas cookies.

26 30. That evening, the family had dinner plans to celebrate the birthday
27 of Travis Miller (“Uncle Travis”), a fellow veteran who lived in the O’Neel
28 family home.

1 31. Prior to leaving for dinner, Faun asked D.O. to put away the
2 Christmas cookies so that the family dog, Liberty, would not get to them while
3 the family was away at the restaurant. D.O. had extra chores that week because
4 he had been caught plagiarizing a school assignment the week prior and caused
5 a number of class disruptions.

6 32. When the family returned home, Faun discovered that the cookies
7 had not been put away as requested. The dog had eaten most of the cookies and
8 created a mess in the kitchen.

9 33. Faun called D.O. to clean up the mess in the kitchen, which now
10 included D.O.'s leftovers from the restaurant that spilled out from the
11 refrigerator due to the haphazard way that D.O. stored the food. Faun marched
12 D.O. to the kitchen to show him the mess he created. After D.O. cleaned the
13 kitchen, Faun sent him straight to his bedroom as a form of discipline.

14 34. At approximately 9:00 p.m., a loud banging was heard at the front
15 door of the family's home. When Danny opened the door, he was met by
16 HEICHLINGER, AUSTIN, and HUSAR.

17 35. HEICHLINGER, AUSTIN, and HUSAR informed Danny that a
18 911 call had been made and that the officers were there to carry out a welfare
19 check on the children. The child B.T. had apparently called the 911 hotline to
20 ask whether grabbing a child by the neck was child abuse. Unbeknownst to
21 Faun and Danny, D.O. had gone to B.T.'s room after cleaning the kitchen and
22 lied that Faun picked him by the neck and carried him to the kitchen.

23 36. HEICHLINGER, AUSTIN, and HUSAR entered the home without
24 Faun or Danny's consent and without a warrant. When Danny protested, the
25 police officers became hostile and told Danny that he needed to "sit down and
26 behave."

27 37. The police officers ordered Danny and Faun to wake the children
28 up so that they could be interviewed. Each of the children were interviewed by

1 the police officers outside of the presence of Danny and Faun. After concluding
2 the interviews, the police officers took several photographs of D.O. There were
3 no marks or bruises on D.O.

4 38. After interviewing the children and Faun, the officers left the
5 home. They did not interview the other residents of the home, including Uncle
6 Travis and Travis's father who was visiting from out of state and also in the
7 home.

8 39. None of the officers presented any paperwork, contact information,
9 or other resources regarding what might happen next.

10 40. Plaintiffs are informed and believe and thereon allege that, on
11 December 21, 2020, an unknown officer, or multiple officers with CITY,
12 contacted Sacramento County DCFAS to file a report of suspected child abuse.

13 41. On further information and belief, Plaintiffs allege that said CITY
14 DEFENDANT(S), defined at this point as Doe's 1 – 5, and unknown COUNTY
15 DEFENDANTS, defined at this point as Doe's 6 – 10, agreed jointly and with
16 full participation of all aforesaid Doe Defendants, to seize B.T., A.O., D.O., and
17 A.T. from the care and custody of Faun without seeking court authorization. At
18 the time that the that DOE CITY DEFENDANTS and DOE COUNTY
19 DEFENDANTS decided to seize the children, there was no imminent risk of
20 serious bodily injury to any of the children.

21 42. On December 22, 2020, two days after the initial contact, and
22 without either any further investigation or any other incidents involving the
23 children or any measure of harm or potential harm, CATANIO, WRIGHT, and
24 DOE CITY DEFENDANTS 1-4 arrived at Plaintiffs' home. They informed
25 Faun that they were there to seize all of the children and remove them from
26 Faun's custody.

27 43. None of the Defendants presented a warrant or court order,
28 authorizing the seizure of B.T., A.O., D.O., and A.T. At the time of the seizure,

1 none of the children were in danger of suffering serious bodily injury or death
2 within the time it would have taken Defendants to obtain a warrant, authorizing
3 the seizure. In fact, Folsom Police officers had responded to the home two days
4 prior and not removed any of the children. Thus, Defendants had ample time to
5 seek a court order authorizing the seizure of the children.

6 44. As before, CATANIO, WRIGHT, and DOE CITY
7 DEFENDANTS 1-4 entered the home without obtaining Danny or Faun's
8 consent. The officers ordered Faun and Danny to bring the children so that they
9 could be interviewed again.

10 45. CATANIO verbally abused Faun and Danny and accused Faun of
11 having had her children previously removed due to drug abuse. This assertion
12 was as shocking as it was untrue.

13 46. Faun had never had any of her children removed from her home
14 for any reason in the past. Plaintiffs are informed and believe and thereon allege
15 that CATANIO intentionally made this knowingly false accusation in order to
16 further terrorize Plaintiffs, or in the alternative, this was false information
17 provided by someone in the employment of COUNTY/DCAFS, defined at this
18 point as Does 6 -10.

19 47. CATANIO interviewed B.T., A.O, D.O., and A.T., without
20 parental consent and outside of Faun's presence. During the interviews,
21 CATANIO, in an apparent effort to "relate" to the children, told the children
22 about trauma that she and her sibling had purportedly suffered during their own
23 childhood and stated that she was a victim of child abuse.

24 48. CATANIO did not learn anything new on December 22, that
25 suggested that Faun presented an imminent risk of causing serious bodily injury
26 to the children and having done zero "investigation" between the time CITY
27 Defendants came to Faun's home on December 20th, there could have been no
28 further information remotely constituting an articulable imminent risk of serious

1 bodily injury to any of the children such that there was insufficient time within
2 which to obtain a warrant or explore lesser intrusive alternatives that did not
3 entirely disrespect and violate the Plaintiffs rights of familial association
4 pursuant to the 14th Amendment.

5 49. Following the interview in the home, CATANIO, WRIGHT, and
6 DOE CITY DEFENDANTS, defined at this point as Does 1 – 5 transported all
7 of the children to Folsom Police Department. They provided no explanation
8 why all four children were seized to Faun or Danny. On the way, Defendants
9 stopped to pick up food for the children at Chick-fil-A and continued the
10 interrogation of the children both in the car and at the police station.

11 50. Within 20 minutes of the children's arrival at the Folsom Police
12 Department, maternal grandmother, Fara Canutt, arrived to request that the
13 children be placed in her care. Upon seeing their grandmother at the police
14 station, children begged CATANIO for permission to go with their
15 grandmother.

16 51. CATANIO refused to let the children even see or speak with their
17 grandmother and denied their request to leave with Fara.

18 52. Instead of determining whether it would be safe for the children to
19 be placed with their maternal grandmother, CATANIO, WRIGHT, and DOE
20 CITY DEFENDANTS 1 – 5 subjected Fara to an interrogation regarding Faun's
21 disciplinary practices. When Fara stated that she had not witnessed or heard
22 anything out of the ordinary with regard to the discipline of the children and
23 that none of the children had complained about any abuse or harsh punishment,
24 Defendants refused to allow her to take temporary custody of the children or to
25 even give them a hug. Instead, Defendants decided to place B.T., A.O., D.O.,
26 and A.T. in non-relative foster care.

27 53. At the time the Defendants placed the four children in foster care,
28 there were no exigent circumstances, i.e. none of the children were in danger of

1 suffering severe bodily injury or death within the time it would have taken to
2 obtain a warrant. In addition, Defendants had no reasonable basis for refusing to
3 place the children with a ready, willing, and able grandparent of the children
4 instead of in foster care, a much less intrusive option than separating the
5 children from everyone and everything with which they were familiar.

6 54. Plaintiffs served a government claim against the City of Folsom
7 and its agents on June 16, 2021. Defendant City of Folsom rejected the claim on
8 or about June 24, 2021.

9 55. Plaintiffs also served a government claim against the County of
10 Sacramento and its agents on June 16, 2021. Defendant County of Sacramento
11 did not provide any written notice rejecting the claim, thus Plaintiffs' claim was
12 defacto rejected as a matter of law after 45 days.

13 **FIRST CLAIM FOR RELIEF**

14 **VIOLATION OF CIVIL RIGHTS – WARRANTLESS SEIZURE OF**
15 **CHILDREN (42 U.S.C. § 1983)**

16 (By Plaintiffs, Faun O'Neel, B.T., A.O., D.O., and A.T, against Defendants,
17 CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE CITY
18 DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1 through 10,
19 inclusive)

20 56. Plaintiffs incorporate by reference all of the preceding paragraphs
21 as if the same were fully set forth herein.

22 57. The right to familial association guaranteed under the Fourteenth
23 Amendment is “clearly established” such that any reasonable law enforcement
24 agent in Defendants’ situation would know it is unlawful to remove a child
25 from the care, custody, and control of its parents or to question, threaten,
26 examine, or search a child in the absence of exigent circumstances without first
27 obtaining a warrant to do so.

1 58. Moreover, the right to familial association guaranteed under the
2 Fourteenth Amendment to the United States Constitution was so clearly
3 established that any reasonable law enforcement agent, including Defendants,
4 would know that it is unlawful to continue to detain a child from the custody of
5 her parent when that agent knows, or has reason to know, that there is no legal
6 or factual basis for the continued detention.

7 59. Likewise, the children's rights to be free from unreasonable seizure
8 was clearly established pursuant to the Fourth Amendment of the United States
9 Constitution, and their rights were violated by their seizure.

10 60. Defendants, and each of them, had, at all times relevant herein, an
11 affirmative duty and obligation to recognize and conduct themselves in a
12 manner that confirms, provides for, and does not violate the protections
13 guaranteed Plaintiffs under the United States Constitution, including those
14 under the Fourteenth Amendment, to include without limitation, the protection
15 of parental rights, the right to privacy, family integrity and the right to familial
16 relations.

17 61. On December 22, 2020, all of the Plaintiffs procedural due process
18 rights pursuant to the Fourteenth Amendment were violated by the conduct of
19 Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE
20 CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1 through
21 10, and each of them, all of whom were acting under color of state law when
22 they acted to violate Plaintiffs' civil rights by, but not limited to, removing,
23 detaining, and continuing to B.T., A.O., D.O., and A.T. from the care, custody
24 and control of their mother, Faun O'Neel, without judicial authorization,
25 parental consent, and in the absence of exigent circumstances.

26 62. Said Defendants committed these unconstitutional acts without
27 proper justification or authority, without probable cause, and without any
28 specific evidence to suggest that any of the children were in imminent danger of

1 suffering serious bodily injury or death at the hands of their mother, Faun
2 O'Neal.

3 63. At the time of said detention, Defendants, and each of them, knew
4 a parent-child relationship existed between Faun O'Neal and her children, B.T.,
5 A.O., D.O., and A.T, and that Faun was entitled to the companionship, care,
6 custody, and management of her children free of unwarranted government
7 interference, and likewise her children were entitled to the companionship and
8 care of Faun.

9 64. Defendants, and each of them, failed to conduct a reasonable
10 investigation into the facts prior to detaining each of the children and placing
11 them in foster care.

12 65. Defendants thereby violated Plaintiffs' rights under the Fourteenth
13 Amendment of the United States Constitution.

14 66. Each Defendant collaborated, acted, and/or conspired to violate
15 Plaintiffs' civil rights.

16 67. Defendants purposefully failed to seek and/or obtain a warrant,
17 knowing that insufficient grounds or evidence existed to support such
18 application and/or, as detailed in Plaintiffs' Third Claim for Relief, below, as a
19 result of an unconstitutional policy, custom, or practice of never obtaining
20 warrants prior to seizing children.

21 68. As a direct and proximate result of these Defendants' misconduct,
22 Plaintiffs have suffered, and will continue to suffer, general and special
23 damages according to proof at trial, including but not limited to, physical and/or
24 mental anxiety and anguish, among other things. Plaintiffs have also incurred,
25 and will continue to incur, attorneys' fees, costs and expenses, including those
26 authorized by 42 U.S.C. section 1988, to an extent and in an amount subject to
27 proof at trial.

28

69. Defendants acted with malice and with the intent to cause injury to Plaintiffs or acted with a willful and conscious disregard of the rights of Plaintiffs in a despicable, vile, and contemptible manner. Plaintiffs are therefore entitled to recover punitive damages from individual, non-entity Defendants, and each of them, as permitted by law and as according to proof at trial, due to the wrongful conduct of defendants as herein alleged and to deter them and others from such conduct in the future.

SECOND CLAIM FOR RELIEF

VIOLATION OF FOURTH AMENDMENT – UNLAWFUL SEARCH (42)

U.S.C § 1983)

(By Plaintiffs, Faun O'Neel, B.T., A.O., D.O., and A.T, against

Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR,

DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and

DOES 1 through 10, inclusive)

15 70. Plaintiffs incorporate by reference each and every allegation
16 contained in the preceding paragraphs as if set forth fully herein.

17 71. In doing the acts complained of herein, Defendants acted under the
18 color of the law to violate each of the Plaintiffs' right to be free from
19 unreasonable searches under the Fourth Amendment to the United States
20 Constitution.

21 72. Defendants acted under color of law by unlawfully entering the
22 family home multiple times without a warrant or an exception to the warrant
23 requirement, thereby depriving them of their constitutionally protected rights.

24 73. Each Defendant collaborated, acted, and/or conspired to violate
25 Plaintiffs' civil rights.

26 74. Defendants purposefully failed to seek and/or obtain a warrant,
27 knowing that insufficient grounds or evidence existed to support such
28 application and/or, as detailed in Plaintiffs' Third Claim for Relief, below, as a

result of an unconstitutional policy, custom, or practice of never obtaining warrants prior to entering homes without consent.

75. As a direct and proximate result of these Defendants' misconduct, Plaintiffs have suffered, and will continue to suffer, general and special damages according to proof at trial, including but not limited to, physical and/or mental anxiety and anguish, among other things. Plaintiffs have also incurred, and will continue to incur, attorneys' fees, costs and expenses, including those authorized by 42 U.S.C. section 1988, to an extent and in an amount subject to proof at trial.

76. Defendants acted with malice and with the intent to cause injury to Plaintiffs or acted with a willful and conscious disregard of the rights of Plaintiffs in a despicable, vile, and contemptible manner. Plaintiffs are therefore entitled to recover punitive damages from individual, non-entity Defendants, and each of them, as permitted by law and as according to proof at trial, due to the wrongful conduct of defendants as herein alleged and to deter them and others from such conduct in the future.

THIRD CLAIM FOR RELIEF

MONELL RELATED CLAIMS

(By Plaintiffs, Faun O'Neil, B.T., A.O., D.O., and A.T, against Defendants,
CITY and COUNTY)

77. Plaintiffs incorporate by reference all of the preceding paragraphs as if the same were fully set forth herein.

78. CITY, including through its Folsom Police Department entity, is a “person” within the meaning of 42 U.S.C. § 1983 and subject to *Monell* liability. (*Monell v. Dept. of Social Services* (1978) 436 U.S. 658.)

79. COUNTY, including through its DCFAS entity is also a “person” within the meaning of 42 U.S.C. § 1983 and subject to *Monell* liability.

1 80. Defendants, City of Folsom and County of Sacramento, including
2 through their respective agencies, had a duty to Plaintiffs at all times to
3 establish, implement and follow policies, procedures, customs and/or practices
4 (hereinafter referred to as "policy" or "policies") which confirm and provide the
5 protections guaranteed Plaintiff under the United States Constitution, including
6 those under the Fourth, and Fourteenth Amendments, to include without
7 limitation, the protection of the right to familial relations; the right to privacy;
8 the right not to be defamed or stigmatized; the right to be free from unlawful
9 searches; and the right to procedural due process.

10 81. Defendants also had a duty to use reasonable care to select, assign,
11 supervise, train, control and review the activities of all their agents, officers,
12 employees and those acting under them, so as to protect these constitutional
13 rights; and to refrain from acting with deliberate indifference to the
14 constitutional rights of Plaintiffs in order to avoid causing the injuries and
15 damages alleged herein. Based on the duties charged to City of Folsom and
16 County of Sacramento, including the nature of their work relating to child abuse
17 investigations, Defendants knew or should have known of the obvious need to
18 establish customs, policies, and practices and adequate training required to
19 protect the aforementioned civil rights of parents and their children as were
20 violated as described hereinabove.

21 82. Defendants each established and/or followed policies, procedures,
22 customs, and/or practices which policies were the moving force behind the
23 violations of Plaintiffs' constitutional rights, including those under the Fourth
24 and Fourteenth Amendments, by, but not limited to:

25 a. The longstanding custom, practice, or policy of separating
26 children from their parents without first having conducted a reasonable
27 investigation;

28

1 b. The longstanding custom, practice, or policy of failing to
2 obtain a protective custody warrant to remove children from parents or
3 caretakers in the absence of exigent circumstances;

4 c. The longstanding custom, practice, or policy of seizing all of
5 the children in a home without undertaking a particularized or reasonable
6 investigation regarding whether each child should be removed in order to avert
7 serious bodily injury, i.e. a “take one, take all” policy;

8 d. The longstanding custom, practice, or policy of failing to
9 undertake lesser intrusive alternative means of ensuring child safety short of
10 removal from the home;

11 e. By acting with deliberate indifference in implementing a
12 policy of inadequate training and/or supervision, and/or by failing to train
13 and/or supervise its officers, agents, employees and state actors, in providing
14 the constitutional protections guaranteed to individuals, including those under
15 the Fourth and Fourteenth Amendments, when performing actions related to the
16 investigation of child abuse.

17 (This list is not exhaustive due to the pending nature of discovery
18 and the privileged and protected records of investigative and juvenile
19 dependency type proceedings. Plaintiffs may seek leave to amend this pleading
20 as more information becomes available.)

21 83. Defendants, and each of them, breached their duties and
22 obligations to Plaintiffs by, but not limited to, failing to establish, implement
23 and follow the correct and proper Constitutional policies, procedures, customs
24 and practices; by failing to properly select, supervise, train, control, and review
25 its agents and employees as to their compliance with Constitutional safeguards;
26 and by deliberately permitting its agents to engage in the unlawful and
27 unconstitutional conduct as herein alleged with a total indifference to the rights
28 of affected parents, including Plaintiffs herein.

84. Defendants, and each of them, knew or should have known that by breaching the above-mentioned duties and obligations, it was reasonably foreseeable that said unconstitutional policies, practices, customs, and usages would cause Plaintiffs to be injured and damaged by County of Sacramento's wrongful policies, or deliberate lack thereof or deliberate indifference to the need for such policies and/or training.

85. These actions, and/or inactions, of Defendants are the moving force behind, and the direct and proximate cause of Plaintiffs' injuries, as alleged herein. As a result, Plaintiffs have sustained general and special damages, to an extent and in an amount to be proven at trial. In addition, Plaintiffs has incurred, and will continue to incur, attorney's fees, costs and expenses, including those as authorized by 42 U.S.C. § 1988, to an extent and in an amount subject to proof at trial.

FOURTH CLAIM FOR RELIEF

FALSE IMPRISONMENT

(By Plaintiffs, Faun O'Neel, B.T., A.O., D.O., and A.T, against
Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR,
DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and
DOES 1 through 10, inclusive)

86. Plaintiffs incorporate by reference all of the preceding paragraphs as if the same were fully set forth herein.

87. On December 22, 2020, Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1 through 10, inclusive, as well as CITY and COUNTY by virtue of the vicarious liability principles of respondeat superior, intentionally deprived Plaintiffs, B.T., A.O., D.O., and A.T. of the freedom of movement through seizure, transportation, and detention and/or

1 conspired with and agreed with one another to commit the same, such that all
2 said defendants are responsible for the resulting harm.

3 88. None of the Plaintiffs, including the mother of B.T., A.O., D.O.,
4 and A.T., consented to the seizure, transportation, and detention of the minor
5 children.

6 89. Defendants, and each of them, did not have judicial authorization
7 to seize and detain the minor children. Further, the seizure of each of the
8 children was not supported by exigent circumstances.

9 90. As a direct and proximate result of these Defendants' misconduct,
10 these Plaintiffs have suffered, and will continue to suffer, general and special
11 damages according to proof at trial, including but not limited to, physical and/or
12 mental anxiety and anguish, among other things.

13 91. Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN,
14 HUSAR, DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and
15 DOES 1-10, and each of them, acted with malice and with the intent to cause
16 injury to Plaintiffs, or acted with a willful and conscious disregard of the rights
17 of Plaintiffs in a despicable, vile, and contemptible manner. Therefore,
18 Plaintiffs are entitled to an award of punitive damages for the purpose of
19 punishing said Defendants and to deter them and others from such conduct in
20 the future.

21 92. Defendants, CITY and COUNTY, are vicariously responsible for
22 the conduct of their respective agents and employees, including, but not limited
23 to, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE CITY
24 DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1-10, pursuant
25 to California Government Code Section 815.2 and other applicable statutory
26 and case law.

27 **FIFTH CLAIM FOR RELIEF**

28 **INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

(By Plaintiffs, Faun O'Neel, B.T., A.O., D.O., and A.T, against
Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR,
DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and
DOES 1 through 10, inclusive)

93. Plaintiffs incorporate by reference all of the preceding paragraphs as if the same were fully set forth herein.

94. On December 22, 2020, Defendants, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE CITY DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1 through 10, inclusive, as well as CITY and COUNTY by virtue of the vicarious liability principles of respondeat superior, intentionally seized, transported, and detained, B.T., A.O., D.O., and A.T. from the custody of their mother, Faun O'Neel, without consent, or aided and abetted, or conspired, or allowed the same to be committed by the other Defendants.

95. In doing so, each Defendant intentionally caused or acted with reckless disregard of the possibility of severe emotional distress to Plaintiffs. Each of the Defendants abused their position of authority over Plaintiffs that gave them real or apparent power to affect Plaintiffs' interests, in causing Plaintiffs extreme emotional distress.

96. Defendants' actions were without privilege, unconsented, and outrageous. No reasonable person would regard Defendants' conduct as tolerable in a civilized community.

97. As a direct and proximate result of these Defendants' misconduct, these Plaintiffs have suffered, and will continue to suffer, general and special damages according to proof at trial, including but not limited to, physical and/or mental anxiety and anguish, among other things.

98. Each of the Defendants' conduct was a substantial factor in causing Plaintiffs' severe emotional distress.

1 99. Defendants, CATANIO, WRIGHT, DOE CITY DEFENDANTS,
2 DOE COUNTY DEFENDANTS, and DOES 1-10, and each of them, acted
3 with malice and with the intent to cause injury to Plaintiffs, or acted with a
4 willful and conscious disregard of the rights of Plaintiffs in a despicable, vile,
5 and contemptible manner. Therefore, Plaintiffs are entitled to an award of
6 punitive damages for the purpose of punishing said Defendants and to deter
7 them and others from such conduct in the future.

8 100. Defendants, CITY and COUNTY, are vicariously responsible for
9 the conduct of their respective agents and employees, including, but not limited
10 to, CATANIO, WRIGHT, HEICHLINGER, AUSTIN, HUSAR, DOE CITY
11 DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1-10, pursuant
12 to California Government Code Section 815.2 and other applicable statutory
13 and case law.

JURY TRIAL DEMAND

15 101. Plaintiff demands a jury trial on each Claim for Relief set forth
16 above.

PRAYER FOR RELIEF

18 WHEREFORE, Plaintiff prays for judgment against Defendants as
19 follows:

20 102. General damages and special damages according to proof;

21 103. As against the individual defendants, punitive damages as allowed
22 by law;

23 104. Attorney's fees and costs pursuant to 42 U.S.C. § 1988, and any
24 other appropriate statute:

25 105. Injunctive relief, both preliminary and permanent, as allowed by
26 law

27 || 106. Costs of suit incurred herein: and

28 ||| 107. Such further relief as the Court deems just and proper.

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2 Dated: 12/24/2021
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By: /s/Robert R. Powell
5 ROBERT R. POWELL
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